REMARKS/ARGUMENTS

I. Status of the Claims

Claims 35-51 and 66-68 are pending in this Application. Without prejudice or disclaimer, claims 52-65 have been canceled. No new matter has been introduced.

Applicants respectfully thank the Examiner for acknowledging Applicants' claims to the right of priority and benefit.

II. Rejection Under Section 102(b)

The Examiner maintains the rejections of claims 35-68 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,861,842 to Cohen et al. ("Cohen") for the reasons "substantially as set forth in the [August 28, 2003] Office Action." Specifically, in the August 28, 2003 Office Action, the Examiner asserts that "the cure systems [of Cohen] are taught as comprising 0.5 to 2.0 phr sulfonamide accelerators, 1.0 to 5.0 phr of zinc oxide or zinc stearate and 0.75 to 3.0 phr sulfur-vulcanizing agents." Aug. 28, 2003, Office Action at 2. In response to Applicants' previous amendments and remarks, the Examiner argues that "the reference need not provide a specific example in order to satisfy the requirements for rejection under 35 USC 102." May 18, 2004, Office Action at 2. Applicants respectfully traverse the rejection for at least the reasons of record and for the additional following reasons.

A. Independent Claims 35 and 45

A claim is anticipated only if **each and every element as set forth in the claim** is found . . . in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added). Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). *See also* M.P.E.P. § 2131. Additionally, a compound or

composition of matter can only be anticipated if the disclosure of a single reference places the compound or composition in possession of the public. *See In re Brown*, 329 F.2d 1006, 1011 (C.C.P.A. 1964). The reference must "clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without any need for picking, choosing, and combining various disclosures . . . ." *In re Arkley*, 455 F.2d 586, 587 (C.C.P.A. 1972).

Cohen does not teach each and every element as set forth in the present claims. Among other things, Cohen does not teach "an effective amount of at least one activator, **expressed as equivalents of zinc oxide**, less than or equal to 0.6% by weight based on the total weight of the tread," as is presently claimed. *See* independent claims 35 and 45. The Examiner has acknowledged that Cohen discloses "1.0 to 5.0 phr of zinc oxide or zinc stearate." Aug. 28, 2003, Office Action at 2 (citing Cohen abstract). Thus, Cohen does not teach less than or equal to 0.6% by weight of zinc oxide. Accordingly, Cohen does not anticipate claims 35 and 45.

Thus, for at least the foregoing reasons, the § 102(b) rejection of claims 35 and 45, and the related dependent claims, over Cohen is improper and Applicants respectfully request its withdrawal.

B. Dependent Claims 36-44, 46-51, and 66-68

Applicants submit that dependent claims 36-44, 46-51, and 66-68 also are patentable under 35 U.S.C. § 102 over the cited references, including Cohen and the other art of record, at least due to the direct or indirect dependency of claims 36-44 from independent claim 35, and the direct or indirect dependency of claims 46-51 and 66-68 from independent claim 45.

C. Claim Scope

In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any

exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants believe that Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

III. Summary

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 35-51 and 66-68 in condition for allowance. Applicants submit that the proposed cancellation of claims 52-65 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships presently claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

In view of the foregoing amendments and remarks, Applicants respectfully submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the reconsideration and reexamination of this Application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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